

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

FILED

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Clerk, U. S. District Court
Eastern District of Tennessee
At Knoxville

John Michael Snider, pro se

)

Plaintiff,

)

v.

) Case No. 3:22-cv-399

Joseph Robinette Biden Jr., in his official
capacity as President of the United States

) Collier/McCook

Defendant

) Receipt #300000722

COMPLAINT

NATURE OF THE ACTION

1. The President is responsible for implementing and enforcing the laws written by Congress and, to that end, appoints the heads of the federal agencies, including the Cabinet. Executive Order 14008 of January 27, 2021, entitled: "Tackling the Climate Crisis at Home and Abroad" does not have statutory backing by law. Congress has not declared a "profound climate crisis." Nor has congress determined that "Responding to the climate crisis will require both significant short-term global reductions in greenhouse gas emissions and net-zero global emissions by mid-century or before." Executive Order 14030 of May 20, 2021, entitled: "Climate-Related Financial Risk" acknowledges the financial risks that this policy causes: "In addition, the global shift away from carbon-intensive energy sources and industrial processes

presents transition risk to many companies, communities, and workers." This policy has lead to rising energy costs and inflation which has harmed all citizens.

2. These Executive Orders are based on theory which began in the middle and late 19th century that earth's average temperature correlates to and is caused by changes in "green house gases" and in particular Carbon Dioxide. The period 1850 to present is considered the "Industrial Revolution" and has actual temperature data. Earth's average temperature tended to be below 1950's average during the period 1880 to 1940, was near the 1950 average between 1940 to 1980 and has been increasing since 1980 to present. During the period 1850 to present, CO₂ increased from 295 to 420 parts per million, and as atmospheric carbon dioxide increased, earth cooled, stayed the same and warmed. Earth's average temperature does not correlate with increasing atmospheric carbon dioxide levels. Without correlation, atmospheric carbon dioxide concentration cannot be the cause of the recent increase in earth's average temperature.

3. Further, an unconsidered risk to our agricultural productivity would result from lowering atmospheric carbon dioxide concentrations. Plants combine sunlight, water, carbon dioxide and nutrients from the soil and air to form sugars. These sugars fuel plant growth and form the basis of the food chain. Farm per acre yield of corn, potato, cotton, barley, peanut have increased three to seven times what was harvested in the mid 1800s. Lowering atmospheric carbon dioxide would compromise our ability to feed 8,000,000,000 inhabitants of earth. This policy is not in the best welfare of U.S. citizens.

4. U.S. code contains legislation known as the Clean Air Act (42-UScode, Chapter 85, section 7408) that directs the Environmental Protection Agency to determine the pollutants that endanger public health or welfare. Since carbon dioxide is a life giving gas, like oxygen, it is either not a pollutant or its impact on the welfare and public health has not been properly

determined. This complaint seeks to have the executive branch direct agencies to carry out the laws in the U.S. code. Article II, Section 1, Sections 2 and 3 of the United States Constitution that describe the various powers and duties of the president, including "he shall take Care that the Laws be faithfully executed."

JURISDICTION AND VENUE

5. This court has subject-matter jurisdiction because the federal claims arise under the Constitution and laws of the United States.

6. Venue is proper in this District under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in this District.

PARTIES

A. Plaintiff.

7. John Michael Snider (pro se), born in Ohio, is a Citizen of the United States of America. His address is 303 Elm Hill Drive, Clinton, Tennessee 37716. (615) 812-0725.

A. Defendant.

8. Defendant Joseph Robinette Biden, Jr., is President of the United States. He is sued in his official capacity.

GENERAL ALLEGATIONS

A. The president must "take care that the laws be faithfully executed."

9. Congress has declared that the purpose of the "Clean Air Act" is to first and foremost: "(1) to protect and enhance the quality of the Nation's air resources so as to promote the public

health and welfare and the productive capacity of its population;" 42 U.S.C. Chapter 85 § 7401(b)(1). Since the Clean Air Acts passage in 1963 the nation has made great progress in air quality of known poisons and carcinogens, so called Toxic air pollutants. Toxic pollutants include Mercury, Carbon Monoxide, Ground-level Ozone, Lead, Nitrogen Oxides, Particulate Matter, Sulfur Dioxide, polychlorinated biphenyls (PCBs), benzene and volatile organic compounds (VOCs) as examples.

10. Recently EPA has been attempting to regulate "Greenhouse Gases." The six principle greenhouse gases are: carbon dioxide, methane, nitrous oxide, ozone and water vapor (which all occur naturally), and fluorinated gases (which are synthetic). Carbon dioxide and nitrous oxide are stable gases which are involved in life processes and are relatively inert or nonreactive. . Under atmospheric conditions these two gases are non condensing. Methane and ozone are unstable and have short half lives in atmospheric conditions. Ozone decays spontaneously; and has a half life at -25 degrees Centigrade of eight days. At twenty degrees Centigrade ozone's half life is 3 days. Methane reacts with oxygen to form carbon dioxide and water; a process which takes 7.9 years. Methane makes up 1895 parts per billion of the atmospheric gases and has an electromagnet resonance matching water vapor. Water vapor, the most powerful greenhouse gas due to its broad coverage of the electro-magnetic spectrum, can be a gas (vapor), a liquid and solid under atmospheric conditions.

11. Earth's Average Temperature is dependent on an energy balance between incoming radiation energy and outgoing radiation energy. Temperature relates to atomic and molecular motion. At absolute zero temperature, atomic and molecular motion is also zero. Radiation from an external source may strike a motionless atom or molecule and induce a spin or vibratory motion. This radiation, or photon traveling at the speed of light, may bounce off the atom or

molecule. It could be bounced back opposite its initial direction or deflected at an angle. Occasionally, an atom or molecule will emit a photon opposite the incoming one. In some collisions all of the photon's energy is added to atomic and molecular motion. These photon interactions add energy and raise the temperature of the atom or molecule. If this molecule or atom is by itself in space at some point this energy will be emitted as radiation. Molecules and atoms near other molecules and atoms may transfer this energy to its neighbors raising their temperature. This is conduction. In a fluid such as a gas or liquid this energy transfer is called convection.

12. Radiation is dependent on temperature. Hot fast moving molecules and atoms emit photons that have shorter wave lengths or higher frequency motion around the direction of travel. We have all experienced this radiation and/or convection from a campfire, stove eye, flame, etc. Also hot atoms and molecules emit more photons due to the higher internal motion. Every atom and molecule has a unique pattern of emission and absorption of photons as a function of wavelength and corresponding temperature. Modeling this in a single gas is possible if the radiation properties of the gas are known. As time and distances become larger, gas mixtures and interaction with phase changing matter radiation modeling become impossible. Simplifications must be found.

13. Models of the Earth capable of predicting temperature must consider: Global water cycle, Extreme weather, clouds and convection, Aerosols and atmospheric chemistry, Radiative transfer, Turbulence and surface exchanges, Human interactions with land, water and energy, Plant processes, Vegetation dynamics, Terrestrial biogeochemistry, Soil hydrology, Ocean modes of variability, Coastal process and waves, Ocean currents and eddies, Salinity and biogeochemistry, Mixed layer processes, Deep ocean circulation, Sea ice, Melt channels and ice

shelves, ice sheets and glaciers, snowpack, Lake and river ice, Permafrost, Planetary Alignment and more. All areas of science are involved to develop a model of the earth system.

14. In light of the foregoing complexities we can develop a general sense of how the earth system average temperature will respond changes in Carbon Dioxide concentration as an example. Earth's average temperature is the temperature where incoming radiation energy from the sun equals the radiation energy going to space. The sun and space have constant temperatures simplifying the heat transfer problem. By studying the radiation properties of a gas in the atmospheric mixture general influences by that gas can be deduced. The manuscript entitled: "If CO₂ is the Global Warming Smoke What is the Fire?" which can be found on the internet:

<http://resistorcfd.com/articles/climate-change-spoiler-its-not-co2>

presents the radiation characteristics of atmospheric gases and discusses their interactions. In addition this paper offers a theory that Man's infrastructure has increased the amount of water vapor in the troposphere increasing the incoming solar energy more than the energy going to space increases and causing earth's average temperature to increase.

15 The popular notion that the earth's average temperature is directly related to the atmospheric concentration of carbon dioxide is not consistent with radiation physics. In fact, carbon dioxide appears to moderate average global temperature. Other changes man has made to the earth's surface have a much larger influence on global temperatures than carbon dioxide.

16. Earth's population has crossed the 8,000,000,000 or eight billion threshold. In 1850, earth's population was 1,263,000,000. Thus, since 1850, the population has increased by a factor of 6.3. Carbon dioxide increase has fueled and explosion in agricultural yields per acre since

1850 that has supported this growth. Potato yield per acre up a factor of 7.3. Cotton yield per acre up a factor of 5.3. Rice yield per acre up a factor of 6. Corn yield per acre up by a factor of five. Rice yield per acre up by a factor of 6. This increase in per acre yield correlates with the increase in atmospheric carbon dioxide. Photosynthesis requires carbon dioxide and has enabled man to increase the population.

17. The defendants policy many very well lead to future famine if not certainly higher food costs. His order also directs the federal government to invest retirement funds into schemes to reduce carbon dioxide emissions is also very risky.

B. Congress enacts laws that influence the daily lives of all Americans and is intended to serve as the voice of the people.

18. To assure its citizens have an environment that they can thrive in congress and past presidents enacted two major laws governing air quality. The short titles are the "National Environmental Policy Act of 1969" (NEPA) and the "Clean Air Act." (CAA) Below are the congressional purpose of these two primary air quality legislation packages:

42 USC Chapter 55 § 4321 "Congressional declaration of purpose:"

To declare national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.¹

42 USC Chapter 85 § 7401 (b) "Declaration:"

The purposes of this subchapter are—

- (1) to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population;
- (2) to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution;
- (3) to provide technical and financial assistance to State and local governments in connection with the development and execution of their air pollution prevention and control programs; and
- (4) to encourage and assist the development and operation of regional air pollution prevention and control programs.

19. Both the CAA and NEPA have as a goal to promote "health and welfare." Plainly, CO2 has a very positive effect on agricultural productivity which adds to the health and welfare of the citizens of the United States of America. President Joseph Robinette Biden has failed to have all the factors considered in the foregoing executive orders.

C. The judicial branch is in charge of deciding the meaning of laws, how to apply them to real situations, and whether a law breaks the rules of the Constitution.

20. An article entitled: "A Dangerous Precedent: How the Endangerment Finding Expanded the EPA's Regulatory Powers" by Brent Bennett, PhD and Katherine Hurych; found on:

<https://www.texaspolicy.com/a-dangerous-precedent-how-the-endangerment-finding-expanded-the-epas-regulatory-powers/>

discusses greenhouse gas regulation including the judicial branches involvement.

CLAIMS FOR RELIEF

COUNT ONE - VIOLATION OF ARTICLE II OF THE CONSTITUTION

21. The defendant has exceeded the constitutional authority of the president as outlined in Article II of the United States Constitution. The above sighted Executive Orders exceed the

statutory authority granted by congress. The defendant has created new law above and beyond the intentions of congress. These orders increase the cost of energy, require resource redirection to an approach which will not achieve the desired results and places our food chain at risk.

COUNT TWO - FAILURE TO ENFORCE U.S LAW

22 NEPA and CAA (defined above) require agencies headed by president to carry out an evaluation of the impact on the health and welfare of United States Citizen by man's gaseous environmental emissions. This evaluation has only considered negative health impacts while ignoring any positive health impacts that most of the greenhouse gases have. This failure has lead to policy and judicial decisions which are not in the best interest of both man and our planet.

PRAYER FOR RELIEF

Plaintiff respectfully request that the Court enter a judgment in his favor and grant the following relief:

A. Declare that the defendant's Executive Order 14008 of January 27, 2021, entitled: "Tackling the Climate Crisis at Home and Abroad" and Executive Order 14030 of May 20,2021, entitled: "Climate-Related Financial Risk" violates the Second Article of the United States Constitution and is *ultra vires*, since it exceed statutory authority.

B. Declare that the defendant's conduct violates both the National Environmental Policy Act and the Clean Air Act.

C. Preliminarily and permanently enjoin defendant's Executive Order 14008 of January 27, 2021, entitled: "Tackling the Climate Crisis at Home and Abroad" and Executive Order 14030 of May 20,2021, entitled: "Climate-Related Financial Risk"

D. Order the defendant to have his cabinet and agencies comply with the intent of both the National Environmental Policy Act and the Clean Air Act. That a full analysis of the positive and negative effects on the welfare of United States Citizens by release of Carbon Dioxide, Nitrogen compounds, Methane, Ozone and water vapor performed and shared with both the legislative and judicial branches to assure laws, policies, resources and future actions promotes harmony with earth and man.

E. Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,



John Michael Snider

Pro Se

303 Elm Hill Drive, Clinton, TN 37716